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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,962	01/18/2000	Dimitri P M Speck	DSK-101	3779

30869 7590 04/07/2004

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO, CA 94306

EXAMINER

NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/487,962

Applicant(s)

SPECK, DIMITRI P M

Examin r

Nga B. Nguyen

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on January 8, 2004, which paper has been placed of record in the file.
2. Claims 1-3 and 5-24 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 1-3 and 5-24 have been considered but are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (the method and system for reiterative betting based on Supply and Demand of betting shares, the investors can bet on potential outcomes against each other on the basis of supply and demand; "events" in real life, e.g., a presidential election; the gambling game is based on supply and demand principles; new quotes in every iteration; exit the bet before the event occurs; participants bet against each other; a share is a security, a unit, a contract) are not recited in the rejected claims. Applicant interprets the claims in light of the specification with specific data is not recited in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, applicant fails to show what the differences between the steps recited in the claims with the Byrne's reference, what step in the claims the Byrne's reference does not teach or suggest. Thus, applicant's arguments do not comply with

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37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In conclusion, examiner maintains the rejections regarding to claims 1-3 and 5-24 as specified in the previous office action (also see details below) and makes this office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 5-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrne, U.S. Patent No. 6,336,862.

Regarding to claim 1, Byrne discloses a computer-implemented method of conducting a consecutive betting process for investors, the computer having a betting exchange unit for performing the following steps:

identifying an uncertain event having potential outcomes (column 14, lines 47-56);

initializing a first betting cycle (column 14, lines 52-53);

receiving bets from the investors for each of the potential outcomes during the first betting cycle to accumulate an initial bet total (column 14, lines 57-62);

issuing equal numbers of outcome shares, the outcome shares corresponding to the potential outcomes (column 2, lines 63-67);

assigning a share value to each of the outcome shares (column 2, lines 55-67, \$1 per share);

assigning quote values each of the outcome shares (column 3, lines 1-35, one share equal to Total super Keno minus tax and divided by total number of super Keno entrants);

distributing the outcome shares to the investors (column 3, lines 27-35).

Byrne calculates the quote value of the outcome share by minus the tax and seeding fee. Therefore, it would have been obvious to modify Byrne's to exclude the tax

and seeding fee when calculating the quote value of outcome share for purpose of providing the quote value not include tax to the investor.

Regarding to claim 2, Byrne discloses monitoring an actual outcome of the futures event; and selecting from among the outcome shares winning shares corresponding to the actual outcome and determining a number of winning shares (column 5, line 47-column 6, line 15).

Regarding to claim 3, Byrne discloses the number of winning shares is selected such that number of winning shares multiply by share value equal to betting total (column 6, lines 5-15).

Regarding to claim 5, Byrne discloses monitoring the actual outcome is performed by a data acquisition unit (column 5, lines 47-50, computer).

Regarding to claim 6, Byrne discloses the investors comprise real investors and artificial investors (column 14, lines 47-56, player and game machine).

Regarding to claim 7, Byrne discloses wherein at least one artificial betting entity places a minimum initial bet on any of the potential outcomes for which corresponding initial bets are zero (column 3, lines 40-65, players have a choice to play bets on different game).

Regarding to claim 8, Byrne does not disclose the real investors are connected to the betting exchange unit by a communication network. However, it is well known that the investor can play game in the computer connected over a communication network such as the Internet. Therefore, it would have been obvious to modify Byrne's to include

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the feature above for the purpose of time consuming because the player does not need to go to the casino for playing game.

Regarding to claim 9, Byrne discloses the method further comprising the following steps: initializing a subsequent betting cycle; receiving amounts of money corresponding to subsequent bets from the investors on each of the potential outcomes during the subsequent betting cycle; receiving numbers of incoming shares in outcomes from the investors during the subsequent betting cycle; and re-assigning the quote values to preserve an equal number of outstanding shares in outcomes such that, wherein ...are number of outcome shares for outcomes newly issued during the subsequent betting cycle (column 4, lines 60-67).

Regarding to claim 10, Byrne discloses wherein the numbers of incoming outcome shares and newly issued outcome shares exchanged are in accordance with the reassigned quote values (column 4, lines 60-67).

Regarding to claim 11, Byrne discloses further comprising the steps of: monitoring an actual outcome of the future event; and selecting from among the outcome shares winning shares corresponding to the actual outcome and assigning a normalized share value to each of the winning shares (column 6, lines 35-60).

Regarding to claims 12, wherein the normalized share value is selected such number of winning shares multiply by share value equal to betting total (column 6, lines 5-15).

Regarding to claim 13, Byrne discloses wherein normalized share value is equal to a unit of currency (column 6, lines 53-60).

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Regarding to claim 14, Byrne discloses determining amounts of outgoing money for each kind of outcome share (column 6, lines 20-35).

Regarding to claim 15, Byrne discloses determining the revised quotes (column 5, lines 25-45, the quote depends on the total amount of super Keno).

Regarding to claim 16, Byrne discloses the step issuing the equal number of outcome share includes solving a polynomial of having $m+1$ roots (column 6, lines 47-48, number of outcome share increase as the players enter the game and purchase the share).

Regarding to claim 17-24, Byrne discloses a system for performing the method of steps as discussed in claims 1-16, above, moreover, Byrne discloses: a means for sending the bets, a betting exchange unit, a computing unit, a distributing unit, an interface, and data acquisition unit (column 14, lines 47-56 and column 5, lines 47-67).

Conclusion

7. Claims 1-3 and 5-24 are rejected.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:


(703) 872-9326 (for formal communication intended for entry),

or

(703) 308-3691 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen
April 2, 2004


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600